

February 9, 2011

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Justina Millan Clegg
Director of Program Controls
Miami-Dade Aviation Department
P.O. Box 592075
Miami, Florida 33159

REQUEST FOR ADVISORY OPINION-RQO 11-01

Dear Mrs. Clegg:

The Commission on Ethics and Public Trust considered your request for an advisory opinion at its meeting on February 8, 2011 and rendered its opinion based on the facts stated in your letter.

You requested an opinion regarding CAGE serving as a subconsultant on the baggage handling system for the North Terminal while providing similar services for American Airlines. The North Terminal will be exclusively used by American Airlines.

In your request, you advised the Commission that Siemens Logistics and Assembly System is the contractor for the baggage handling system for the North Terminal. The firm was hired by American Airlines to construct the baggage handling system. At that time, American Airlines hired CAGE, a specialist in baggage handling systems, to serve as its consultant on the baggage handling system.

In 2005, Miami-Dade County assumed control over construction of the North Terminal from American Airlines. At that time, the County contracted with URS to serve as its representative on the project. The scope of services provided that URS would "provide oversight and review, performance criteria and quality control oversight of the work performed by Siemens" in accordance with the

design documents. URS hired CAGE to serve as its subconsultant after the County assumed management of the project.

The Fourth Amendment to the Lease, Construction and Financing Agreement provided that the County did not warranty any work done on the baggage handling system and made no representation as to the adequacy or fitness of the end product.

The Aviation Department is currently engaged in the final testing phases for the baggage handling system. Over the course of the project, the Transportation Security Administration (TSA), the Federal Aviation Authority (FAA) and American Airlines have requested numerous changes to the original baggage handling system. An internal 40 hour testing of the system by the airport is scheduled to begin on February 1st. CAGE, as a subcontractor to URS, is scheduled to conduct that testing and provide a report on the fitness of the system. On February 19th, American Airlines is scheduled to begin its own testing. American wants to hire CAGE to conduct its testing also. Notwithstanding the contract language, American may seek further work on the baggage handling system based on its testing results. The baggage handling system is scheduled to become fully operational by the spring of 2011.

The Ethics Commission found that CAGE may not simultaneously serve as a consultant for American Airlines and MIA because it will compromise the firm's independence of judgment in the performance of its official responsibilities. In a series of opinions, the Ethics Commission has opined that certain contractual arrangements create an inherent conflict of interest. For example, a conflict exists if a contractor has overlapping responsibilities on different phases of the same project (i.e. AE on one phase of the project and serving as value engineer, CIS or CM partner on another phase of the project;

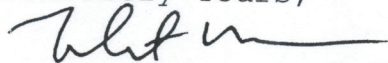
supervisor or prime on one phase of the project and subcontractor on another or related phase or project). Further a conflict may exist if there are overlapping roles or responsibilities between two related contracts. These arrangements create conflict because they lead to disclosure of confidential information and impair independent judgment by the contractor in the performance of its contractual obligations.

In the instant case, CAGE will have overlapping responsibilities if it oversees the final testing of the baggage handling system for American and MIA. Accordingly, under the Ethics Commission's prior opinions, CAGE has an impermissible conflict and may not serve in both capacities.

This opinion construes the Miami-Dade Conflict of Interest and Code of Ethics ordinance only and is not applicable to any conflict under state law. Please contact the State of Florida Commission on Ethics if you have any questions regarding possible conflicts under state law.

If you have any questions regarding this opinion, please call the undersigned or Ardyth Walker, Staff General Counsel at (305) 579-2594.

Sincerely Yours,

A handwritten signature in dark ink, appearing to read 'Robert Meyers', with a long horizontal flourish extending to the right.

ROBERT MEYERS
Executive Director

